IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 4TH SEPTEMBER 2007 / 13TH BHADRA 1929

OP.No. 29595 of 1999(W)

PETITIONER:

S.LATHA,
UPSA, S.M.HIGHER SECONDARY SCHOOL,
KOTTARA, MEEYANNOOR P.O., KOLLAM.

BY ADV. SMT.V.P.SEEMANDINI
SMT.K.R.KRISHNAKUMARI

RESPONDENTS:
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1. **STATE OF KERALA, REP. BY THE SECRETARY TO GOVT., GENERAL EDUCATION DEPARTMENT, THIRUVANANTHAPURAM.**

2. **THE DIRECTOR OF PUBLIC INSTRUCTIONS, THIRUVANANTHAPURAM.**

3. **THE DISTRICT EDUCATIONAL OFFICER, KOTTARAKKARA.**

BY SR.GOVERNMENT PLEADER SRI. T.T. MUHAMOOD
BY ADV. SRI.SUNNY MATHEW

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 04/09/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

ORDER ON C.M.P.NO.50395/1999 IN O.P.NO.29595/1999 W

CLOSED

04/09/2007 **SD/- S.SIRI JAGAN, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE APPOINTMENT ORDER DTD. 4/07/89 TO THE PETITIONER.**

EXT.P2: **COPY OF THE APPOINTMENT ORDER DTD. 15/07/95 TO THE PETITIONER.**

EXT.P3: **COPY OF THE APPOINTMENT ORDER DTD. 21/09/95 TO THE PETITIONER.**

EXT.P4: **COPY OF THE APPOINTMENT ORDER DTD. 23/11/95 TO THE PETITIONER.**

EXT.P5: **COPY OF THE APPOINTMENT ORDER DTD. 25/01/96 TO THE PETITIONER.**

EXT.P6: **COPY OF THE APPOINTMENT ORDER DTD. 3/06/96 TO THE PETITIONER.**

EXT.P7: **COPY OF THE LETTER NO.29088/LS/98/GE DTD. 8/07/98 FROM THE 1ST RESPONDENT TO THE PETITIONER.**

EXT.P8: **COPY OF THE G.O.(MS) NO.412/97/G.EDN. DTD. 16/10/1997.**

EXT.P9: **COPY OF THE G.O.(P) NO.240/99/G.EDN. DTD. 29/09/99.**

EXT.P10: **COPY OF THE REPRESENTATION DTD. 6/08/98 SUBMITTED BY THE PETITIONER BEFORE THE MINISTER FOR EDN.**

EXT.P11: **COPY OF THE LETTER NO.59067/L2/98/GE DTD. 21/05/99 SENT TO THE PETITIONER BY THE 1ST RESPONDENT.**

/TRUE COPY/

P.A.TO JUDGE

KSS

S. SIRI JAGAN, J.

O.P.NO. 29595 OF 1999 - W

Dated this the 4th day of September, 2007

J U D G M E N T

Based on Ext.P9 Government Order, the petitioner, an aided school teacher, seeks condonation of break in service for the period from 30.3.1996 to 2.6.1996. The petitioner was being appointed in leave vacancies. She was so appointed till 30.3.1996. However, on account of want of vacancy, the petitioner had to be retrenched from service. She was again appointed in another leave vacancy from 2.6.96. The break in service occurred, in the above circumstances. The contention of the petitioner is that the petitioner has been so appointed from 17.7.1989 and except for the break in service for the small period, the petitioner continued to serve in leave vacancies till 29.3.1996 and from 3.6.1996, she was regularly appointed. The contention of the petitioner is that in Ext.P9 Government Order, aided school teachers who are eligible for protection as per para 2(1) of Ext.P9 when retrenched during the subsequent years due to

division fall, will be reinstated in service in their parent school. The period during which they are out of service would be regularised as eligible leave or leave without allowances. The petitioner seeks extension of such benefit to the petitioner also.

2. The benefit of Ext.P9 order cannot be extended to the petitioner for the simple reason that Ext.P9 order is applicable only to protected teachers and at no point of time, the petitioner was recognised as a protected teacher. The break in service is a natural consequence of want of vacancy. In so far as there is no provision anywhere in the Kerala Education Rules or any Government Orders enabling the respondents to condone the break in service, I am unable to direct condonation of break in service of the petitioner. Accordingly, the writ petition is dismissed.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

O.P. NO. 29595 OF 1999

J U D G M E N T

DATED:04-09-2007